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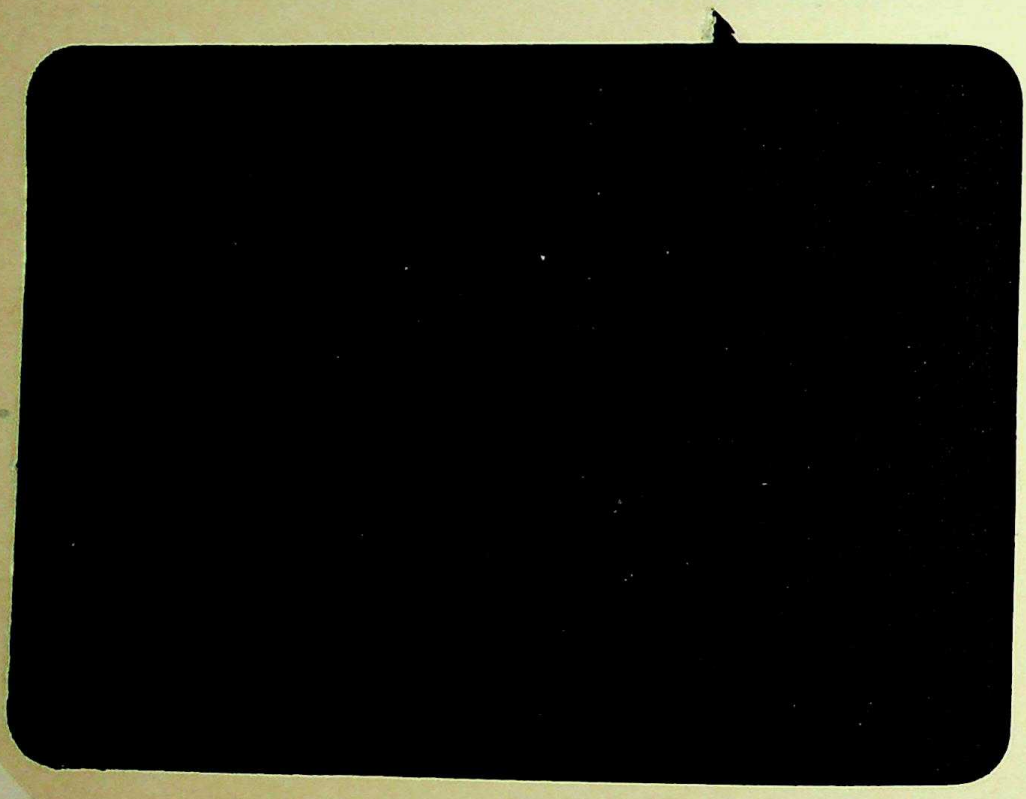

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"Restoring the Family" : Wife Murders and the Making of a Sexual Contract for Indian Immigrant Labour in the British Caribbean Colonies, 1860-1920

by

Prabhu P. Mohapatra*

In 1919, the system of indentured labour immigration from India had just ended in British Guiana. As the prospect of reviving it faded rapidly, the colonial government came up with a scheme of colonisation to persuade the Indian government to resume emigration in a different form. That year Timheri, the prestigious Journal of the Agricultural Society of Guiana, published a special issue on colonisation and a major review of 80 years of indentured emigration from India. James Rodway, the editor of the journal and the premier historian of British Guiana, wrote the lead article on the history of colonisation, which contained two photographs: one showing a group of newly arrived Indian labourers arrayed against the side of the boat that brought them - lines of faceless "coolies", both men and women - and the other photograph just below it, of a prosperous looking East Indian settler family.[1] The aim of these two photographs was to render visible a historical process. What was represented was a trajectory - that of the creation of the family from an amorphous mass of "coolies".

---

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The ideological project of the photographs and the accompanying essay, was to counter the critique that signalled the end of indenture. Because, it was precisely on the question of the failure of the formation of the family, that the indentured system had been morally condemned. Indenture, it was argued powerfully by the Indian nationalists, had degraded the labourers; the men had been enslaved, women made prostitutes and family life destroyed.[2]

Against this persuasive moral critique the photographs were too weak a defence. Yet, they told a story, however unconvincing, of a moral order of family that the system of indenture claimed to have created from the chaos of coolie domestic live - yes, chaos was what Edward Jenkins an early critic of the indenture system had described the family and marriage among the Indian laborers in 1870.[3]

At the end of the indenture system, the ideal of the Indian family was thus sought to be established . Rodway wrote,

> East Indian is a family man, as can be seen in our streets every day where father, mother and baby walk together ... they have something like a real home".[4]

This idyllic image of the East Indian family, deployed specifically to contest the nationalist critique, however

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was a fairly recent creation. Because thirty years earlier, in one rare confessional moment the governor of British Guiana had bemoaned the absence of family life among the Indian indentured labour on the plantations, and hoped to, "restore family life which is largely obliterated by emigration as now conducted".[5] What had provoked the colonial official to embark on this extraordinary project of restoration of family, was literally its "obliteration"-evident to him in the growing incidence of murders of Indian women by their male partners which were termed "wife" murders, on the plantations.

In this paper, I discuss an aspect of the colonial project of "restoration" of family amongst the Indian indentured labourers in the British caribbean colonies of Guiana and Trinidad. I suggest that the family structure amongst Indians, which emerged at the end of the indenture, was deeply impressed by this colonial project. An important form in which this project was realised was through the formation of a series of legislation collectively called the marriage laws which sought to provide legal foundation to the Indian family. The legal construction of the Indian family was achieved at a cost borne largely by the Indian woman. This was done I argue, by forging a sexual contract, a concept which I have borrowed from Carole Pateman's recent

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work of the same name.[6] Pateman defines sexual contract as the repressed part of the story of social contract by which the civil society and the realm of modern public sphere was founded. She argues that the formation of civil society and the state through a contract between free male individuals presupposed another contract that explicitly subordinated the woman to the man and effectively barred the entry of the woman into the civil society by confining her to the private sphere of the family. The sexual contract interestingly is not only a contract between a man and a woman, it is primarily a compact amongst the men to ensure orderly access to the women's bodies and which establishes the male sex rights. The contract between a man and a woman is more properly termed a marriage contract, in which a woman exchanges obedience for protection. It is thus incorporated into the larger concept of the sexual contract that enshrines the collective male sex rights. I found the notion of sexual contract useful in three aspects of my study. The first is in the way the notion of sexual contract throws light on the indenture labour contract - which was the master contract that governed relations between the Indian immigrants and the wider society in the caribbean colonies in the 19th century. Like the sexual contract the indenture contract explicitly subordinated

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the bodies of the labourers to the planters. It was this subordination inscribed in the criminal breach of contract clauses that allowed the immigrant labourer to be exploited as cheap labour. Secondly like the sexual contract the indenture contract was not only a contract between the labourer and the individual planter, it was also tacitly a contract amongst the planters to ensure orderly access to the labourers bodies. The similarity of the indenture contract and the marriage laws provides a useful approach to understand the process of legal constitution of the family in the caribbean plantations. More specifically the distinction between the marriage contract and sexual contract is important for my study. Lastly, inspite of a formal similarity between the sexual contract and the indenture contract, specially in the way in which contract creates subordination in both cases, a crucial difference, that hinged on the question of reproduction, sets them apart. The indenture labour system as I have argued elsewhere and shall illustrate in the paper was at best indifferent or at worst antithetical to the natural reproduction of the labour force, since it renewed itself by constant importation of labour.[7] Thus the sexual contract was in no way integral to the indenture system. Pateman's illuminating discussion of the free labour contract on the other hand demonstrates clearly that the sexual contract

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was necessarily presupposed in the free labour system, guaranteeing both orderly access to women's bodies and orderly reproduction of the labour system. In this way then the story of the historical transition of a labour system from indenture to one based on juridically free labour necessarily involved the mediation of a sexual contract. As it happened in the caribbean case, the evolution of the marriage laws was historically coeval with the sharpening contradictions of the indentured labour regime during the late 19th century, leading to its eventual replacement by a free labour system.

There are four moments in my argument. First, I examine the phenomenon of wife murder, as represented in the official discourse around it. The key figures of the "unfaithful wife" and her "violent husband" that emerged from this discourse were crucial inputs into the formation of marriage laws. In the second moment of my argument, I locate the ambiguous experience of freedom and constraint of the Indian women labourers within a basically non reproductive labour regime. The third moment of my argument details the changes in the labour regime occasioned by the long crisis of the sugar economy in the late 19th century with the accent now shifting to reproduction of the labour on the plantations. Finally, I trace the emergence and

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the transformation of the ideology of the family in the evolution of the marriage laws, for the immigrants. Originally conceived to prevent wife murder, marriage laws in the 1880s became the site where the patriarchal norms were progressively inscribed, as part of the project of "restoring" the family.

I

A brief overview of the indenture labour system may be in place here. Indenture contract labour was imported from India to the West Indies, immediately after the abolition of slavery in the British empire in 1838. By 1917, when the indentured labour system was abolished 241,000 and 145,000 labourers had arrived in British Guiana and Trinidad, respectively. Under the indentured contract the labourers were bound to work on a plantation for a period of five years on a fixed daily wage. At the end of the indentured period, and after another five years of industrial residence in the colony the labourers could claim free repatriation. However, only 25 percent of the labourers actually ever returned to India. On the plantations all aspects of labour relations were governed by an elaborate series of labour ordinances which empowered the planters to enforce the labour contract. Breach of

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indenture contract, which included refusal to work, unsatisfactory work, absence from work, insubordination and even breach of hospital regulations entailed criminal prosecution and imprisonment for the labourer. Indenture labour was in effect immobilised labour, forced to work on the plantation on pain of imprisonment. Through out the period of indenture a remarkably high proportion of the indentured labour was annually convicted of breach of contract. Wages, though notionally fixed on a daily rate for fixed hours of labour were in practice, paid by "tasks", set by the managers, in the appraisal of which the indentured labour had no say. One extraordinary feature of the indenture system was that the nominal wage rate remained constant throughout the period of indenture.

The annual importation of indentured labour varied according to the demand of the planters, the average figures being 3000 per year in British Guiana and 2000 per year in Trinidad. The peak of labour importation was reached in the decade of the 1870s and 1880s after which it declined. Most of the recruits were in the prime age group of 20-30 and were drawn largely from the heavy emigrating districts of eastern United Provinces and western Bihar in India. The caste composition of the recruits matched very closely that of the place of recruitment. Similarly the religious

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composition of the recruits mirrored closely the situation in the home context with 85 percent of recruits being Hindus and 15 percent muslims and other religions. Inspite of the close correspondence of the social and religious composition of the migrants with that of their home context, their recruitment, transportation and insertion into the plantation regime as "coolies" or East Indians took precedence over inherited social identities and differences.

A feature of the indentured emigration important for the discussion here, was the skewed gender composition of the emigrants. Of the total number of emigrants only 25 per cent were women. The recruitment of women was governed by the minimum quota rule imposed by the colonial office and the government of India. After various experiments the quota was fixed at 40 women per 100 men in each shipment in 1868. Very rarely was the minimum quota ever exceeded in the annual importation. Most women who were recruited were single, unaccompanied by husbands or other male relatives. The proportion of married women to the total women recruited varied between 25 to 33 percent. Of these some had entered into relationships, marital or otherwise in the recruitment depots and on the ships during the long voyage to the West Indies. The single women were drawn from the same social strata to which the migrants in

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general belonged. A great majority were widows and other destitute women abandoned by their families and a few were prostitutes drawn from the burgeoning metropolis of Calcutta and Madras.

II

Of Unfaithful Wives and Violent Husbands: The Official Discourse on Wife Murders.

The questior of family came to occupy the minds of the planters and colonial officials, primarily due to the persistence of the phenomena of "wife murder" in the plantations, in the late 19th century. The official attempt to make sense of the phenomena and their attempt to control and prevent it was crucial to the evolution of their notion of family, amongst the Indian immigrants.

Woman murder on the West Indian plantations became a matter of serious concern for the colonial office in the 1860s. In British Guiana and Trinidad, murders of women were found to be exceptionally high. It was reported that between 1859 and 1863, 16 and 11 Indian women respectively had been murdered in these two colonies by their husbands or reputed husbands. In 1864 a worried Secretary of State of colonies sent out a circular to the labour importing colonies, asking for urgent steps to be taken to reduce incidence of murder of women. He advised measures to

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increase the proportion of women in the recruitment, greater care in selecting a better class of women, and finally, stricter supervision of the coolies on the plantation by managers and overseers.[8]

The concern of the colonial office was largely to preempt any criticism of the indentured emigration system which might lead to its discontinuance. The memory of the energetic agitation over the treatment of coolies in British Guiana and Mauritius by the Anti Slavery Society in the 1840s, which had led to the temporary prohibition of emigration in 1843 was still fresh.[9] The governor of British Guiana in 1868, while asking for vigorous measures to stop the crime of woman murder, warned the planters:

> ...there are many persons in England and some with considerable influence who are watching coolie emigration with great vigilance and who will not fail to bring any defect in the system before the public eye".10

As a consequence of the concern of the colonial office, the governors of the labour importing colonies were required to report on the incidence of women murders. These became a regular feature in the annual reports on immigration of the colonies. The reports provided figures for three categories of murder among the Indian immigrants, namely total number of murders, murder of women and the murder of wives. The figures of woman murder included those for the

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wives. The statistics are available in the annual reports of immigration from 1870 onwards.

From these figures certain trends in the long term pattern of woman and wife murders can be discerned. It is clear that till the end of the 19th century women murders predominate in the total figure of murder. In Trinidad for instance, between 1872 and 1897, of 102 total murders 76 were of women, of which 59 were of wives. But between 1898 and 1913, of the 102 total murders, 39 are of women and only 18 of these were wife murders. In British Guiana between 1885 and 1900, of the 103 total murders, 78 were of women, 58 of which were of wives. After 1900 until 1915 (excluding 4 years for which I do not have the data), of the 66 total murders, only 30 are of women of which 20 were of wives.[11] The shift in the pattern of woman murder including wife murder is dramatic in the post 1900 phase of the plantation regime: woman murder as well as wife murder became much less both numerically and as a proportion of the total murder.[12] This trend need to be taken into account while gauging the official explanations of wife murders in the caribbean plantations.

How did the officials and planters explain, rationalise and handle the problem of "wife" murder on the plantations? The first stance of official discourse on the

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murder of women was in labelling these as "wife murder". This had a series of consequences. It became a way of not talking about a significant number of murders of women, other than of "wives" thus collapsing a variety of relationships between men and women on the plantations into a single mould. Consequently certain (wifely?) norms were set up against which transgressions could be measured, invoking a scenario, in which psychological propensities could be distributed to the actors. By the act of labelling, the immense human tragedy on the plantations could be staged as a morality play of "unfaithful" wives and "cuckolded" husbands. In the process, the phenomenon was represented and thus understood in a manner which denied it novelty, elided the disruption caused by indentured emigration and emphasised continuities; both cultural and psychological.

The officials were aware that the bulk of the women who came were single and the relationships they entered into with men bore no resemblance often to marriage. However, they got around the problem by labelling and recording these, as merely non legal marriages i.e. de facto if not de jure marriages. Thus the women were termed "reputed wives" and the men, "reputed husbands". And this was how the Annual Reports on Immigration accounted for various categories of murders on the plantations. From this it was but a short step to ascribing the motive for the

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murder of women to "jealousy" induced by "reputed wives" deserting their "reputed husbands". The motif of unfaithful wives and injured husbands was now implicitly established in the act of labelling.

Two different sets of explanations were offered by the officials as causes of "wife" murder. The first, broadly emphasised the inherited "cultural" characteristics of the migrant labour, while the second, regarded it as the "natural" result of the inequality of sex ratio and paucity of women on the plantations. Sometimes competing and often combined, these explanations had immense practical and ideological consequences; they could be mobilised to defend certain policies or oppose them. Common to both these explanations however was the generic description of the murder of a woman as "wife" murder caused by jealousy. The standard scenario of murder described by the Chief Justice of British Guiana was widely shared by officials, newspapers, planters and others who commented on the crime:

> A man and a woman are brought here as immigrants from India in the same ship; they become intimate; on their arrival they are married by the Immigration agent general and are indentured to the same plantation and settle there as man and wife. All goes smoothly at first. After a time however the woman who is young, uninstructed and vain is attracted by a coolie who has been longer resident in the colonies and is able to offer her

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> presents of silver or gold ornaments and to make her promises of wealth which her husband cannot approach. The woman either openly abandons her first husband and goes to live with him, or carries on an intrigue with him, which comes to the knowledge of the husband...the injured man is left a mark for the jeers and ridicule of his fellows, and the consciousness that such is the case is often a powerful factor in goading him on to the fatal violence (my emphasis)13

The culturalist explanation for "wife murder" was often advanced against the pressures of the colonial office to increase the proportion of women in recruitment. In 1868, the protector of immigrants in Trinidad Henry Mitchell, argued that the scarcity of women had very little do with the murders, which were largely due to:

> the hereditary and ineradicable belief of the masses of Indian population that, man has complete jurisdiction over his wife and on that belief he acts in his own country and carries his creed along with labour where ever he may migrate.14

Wesleyan missionary Bronkhurst of British Guiana, described these cultural norms as extreme jealousy on the part of males who followed their religious custom of punishing adultery by death.[15] The fact that majority of the "wife" murderers were relatively recent immigrants, was also ascribed to their being more under the influence of these norms.[16] These arguments in official reports were buttressed by giving examples of the practice of "wife" murder and brutality on women in India.[17]

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The governor of British Guiana asked the colonial office in 1871 to compare the incidence of "wife" murder in the colonies with that of India on the ground that:

> ..wife murders are just as prevalent amongst these people in their country as here; and this being so, it would appear that their cause can not be attributed solely to the changed circumstances which surround these people either in this colony or in other colonies to which they have migrated.18

The governor hoped thereby to lay to rest any criticism of the indenture system as having a bearing on the incidence of "wife" murders.

The results of the enquiry were, however, to disappoint the governor. They showed that the rate of "wife" murder in British Guiana (142 per million per year) was about 90 times higher than the rate in India (1.6 per million per year), for the period 1859-1970.' And compared to the rate in the United Provinces in India from which most of the indentured labourers were drawn, the British Guiana rate was 142 times higher.[19] This inconvenient result was then explained away by asserting that the comparison was invalid as the Indian figures included the whole of "the respectable classes", while the colony figures were of "crimes committed by a population exclusively of the lower classes".[20]

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The cultural persistence explanation had to contend with another contradiction. If the Indian males carried their inherited custom of jealousy and the idea of women as chattels, why did not the women carry with them notions of chastity and monogamy? The reason, it was contended, must then lie in the fact that the women were already morally degraded before they arrived in the colonies. Bronkhurst a Wesleyan Missionary in British Guiana, explained the infidelity of normally chaste Indian women thus:

> ..the great majority of women imported from Calcutta are very loose in their habits: they were bad in Calcutta and so they will continue to remain in Demerara; and hence the instances of infidelity and misconduct on the part of the married and unmarried females". 21

The protector of immigrants of Trinidad went on to declare in 1881: "Chastity is almost unknown to the class of woman indentured from India to this colony". 22 It is not certain if the gentleman was writing from personal experience! But by now the image of the "morally depraved" woman, who invited revenge for infidelity had become an established mode of the official explanation for "wife" murder.

The cultural explanation was now combined with a "naturalist" one. Most officials regarded the disparity of sex ratio to be the primary cause of "wife" murder in the colonies. The British Guiana commission, had surmised in 1870 that the crime of "wife" murder was attributed to,

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"the constitutional jealousy of the oriental aggravated in British Guiana by the great disparity of sexes among immigrants". But in 1876, the governor of British Guiana while reviewing the cause of the crime of "wife" murder, was more forthright- the "principal cause is the disparity of sexes", he wrote.[23] By the 1880s, with the women murders continuing unabated, the sex ratio disparity argument, was repeated so regularly in the official reports as to make "wife" murder a "natural" and "inevitable" consequence. Implicit in this was a notion of competition between men for a scarce commodity. But if the men were competing for fewer women, it would be natural for them to kill each other rather than the women. A few officials who commented on this noted that the murder of the male rival was a rare occurrence.[24]

It was in explaining this anomaly, that a second explanation was put forward by again deploying the image of the "morally depraved" woman. The British Guiana governor, who ascribed the primary cause of "wife" murder in the colony, to the inequality of sex ratio, added that the cause became operative because the disparity of sex ratio afforded "every facility to the woman to desert her "reputed" husband.[25] The chief justice of British Guiana argued in 1872 that the "loose and depraved women", gained, "value and influence" due to their paucity in the colonies. Tempted

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by men with presents and jewelry, they deserted their husbands provoking jealousy and murder.[26] In the official discourse, then, the translation of "natural" competition for women into their murder, hinged crucially on the figure of the "immoral woman", who by transgressing wifely norms invited revenge.[27] In 1869 Ramcharan an Indian indentured labourer killed his "reputed" wife in British Guiana. In the court he pleaded that he killed his wife on seeing her commit adultery with another coolie. Evidence of the witnesses showed this to have been a false allegation. The jury and the judge did not find any evidence of the fact of adultery and provocation to murder and recommended death penalty for the man. Yet the governor of the colony commenting on the case wrote:

> ..I have no doubt that the murder arose out of a feeling of jealousy alone, and if the truth could be ascertained it is more than probable that the feeling was not excited without cause. The loose character of a considerable portion of the female immigrants is one of the most objectionable features connected with this class of the population.[28]

If the causes of wife murder were grounded on the immoral nature of the Indian women and culturally ingrained violence of the men, how was the commission of the crime to be prevented? Throughout the 19th century, the colonial state regarded the stringent application of the death penalty

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by hanging for the wife murderers as the most effective deterrent against the crime. In 1863 the governor of British Guiana in a special proclamation to the immigrants notified that, the crime of wife murder would receive the highest penalty and no pleas of previous provocation would be admitted.[29] A few times when the death sentence was commuted under special circumstances by the intervention of the governor, the colonial office was quick to admonish the local authorities.[30] Consequently the death penalty was administered with unremitting regularity throughout the 19th century. There was however a discernible change in the sentencing at the turn of the century. Along with perceptible decline in the commission of the crime in the post 1900 period, an increasing number of sentences deemed the crime as manslaughter i.e. homicide without pre- meditation. A large number of such convictions were now for long periods of imprisonment: a greater weight being given to the pleas of provocation. Thus in 1914 in British Guiana, when a man pleaded that he was driven to uncontrollable rage and murder at the sight of his wife having sex on his own bed with her paramour the man was acquitted. Similarly in 1905 another man who pleaded that he murdered his wife because she had developed sexual intimacy with a young boy whom the man had brought up in his home as a son,

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was also acquitted.[31] Such acquittals would have been impossible in the 1870s, even when many colonial officials were convinced that the death sentence was hardly an effective deterrent. Persistence of wife murder throughout the 1870s and the spurt in the 1880s strengthened the belief that the Indian male murderers were immune to the terror of capital punishment. It was argued that unlike the civilised western world, where a christian man was terrified by the prospect of death and afterlife, the eastern man being a fatalist was hardly scared by it, as long as he felt justified in his action. Therefore the only way to strike terror in the heart of the potential perpetrators of the crime was to punish the murderers with extreme physical pain namely in catting the criminal in a public place. A combination of long prison sentence along with flogging in public was suggested regularly through the 1870s and 1880s as an effective alternative to the death penalty.[32] The alternatives suggested were often quite bizarre: in 1873 an exasperated Royal Gazette of British Guiana suggested mutilation of the body of the hanged criminals in order to render the terror of capital punishment a deterrent.

पुस्तकालय गुरुकुल कांगड़ी विश्वविद्यालय

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In 1878, wesleyan missionary Bronkhurst, something of an expert on Hindu religion in Guiana suggested several

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alternatives to the capital punishment for the Indian coolies based on his observation that the Indian mind was stoically indifferent to the terror of death. He first suggested that the murderer be punished to work for life on the plantation where he committed the crime without pay and with suitable social restrictions "thereby justice would be subserved in two ways: the planters' interest would be consulted while at the same time the supremacy of law be vindicated".[33] After suggesting other alternatives Bronkhurst unveiled his most important reason for opposition to hanging:

> It is a well known fact that the great majority of our coolies believe that whenever a man dies on the gallows in a strange land he goes back to his native land immediately after death, consequently hanging is no punishment whatever....I would recommend public decapitation... The partial dismemberment of the bodies of the murderer after they are hanged, recommended by some, will not remove from the minds of the coolies the notion that death by hanging on the gallows is but a safe and sure passage to their native land. A man must have his head on his shoulders when he goes to India:he can't find himself there minus his head. I would strongly recommend beheading or decapitation of the murderer in the presence of all spectators. It is evident something must be done to put a stop to murders in this colony.[34]

Such alternatives however did not find favour with the colonial office and were repeatedly rejected as being inhuman.[35]

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If the official explanations of the wife murder produced the figure of the immoral woman and the unfaithful wife, the discourse on punishment produced and confirmed a complementary image of the violently jealous husband who was driven by a fatalist creed.

The construction of the crime of woman murder, through the 19th century in the official discourse, had established three features. First, it had become a discourse on "wife" murder. Second, it had constructed the major motive of the crime as "sexual jealousy". In the process, it had placed at the centre of the construction of the crime, the image of the "immoral" woman who deserted her violently jealous husband. Finally and most importantly, the causes of the crime were surreptitiously shifted to the context from which the labourers had emigrated. It was as if the script of the murders was written before hand in India and the plantations were a mere stage where it was enacted albeit, with a delay. So, while a continuity was established in terms of psychological propensities and cultural norms, a radical rupture was effected between the crime and the scene of the crime. This rupture had an important function: it exonerated the plantation labour regime from any role in the murders. In the numerous accounts, notes and memoranda and reports in which officials, missionaries, judges and planters wrote about "wife" murder, there is

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a systematic silence on the conditions of labour. The fact that most of the murdered women and the murdering men were primarily labourers on the plantations, did not seem to have any bearing on the discourse on "wife" murder. The official explanations, therefore, could not account for the long term patterns and the periodic spurts in the incidence of women murders. Why did murders of women and wives, decline so rapidly after 1900? Is it possible to relate it to the large movement away from the plantations and the settlement of labourers in villages in the late 19th century? Or is it a mere coincidence that the years which saw dramatic increases in the incidence of women murder, happened to be the periods of deepest crisis on the plantations? That, the pattern of women murders could have some relation with the labour regime and the changes in it, needs to be explored more fully.[36] For instance it could be argued that the labor regime on the plantation had a more direct bearing on the killings of the women if we begin from the scene of the crime and the weapon used to commit it. In most instances, the women were killed by being hacked to death by cutlasses, which the men were issued to cut canes. And in numerous cases the scene of the crime was the cane fields. The division of labour on the plantations had ensured that the women were employed

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primarily in the lowest paying tasks, in the weeding gangs while the heavier tasks requiring the use of cutlasses, hoes and shovels were reserved for the men. The labour regime thus apart from discriminating against the women in terms of payment of wages and tasks, had effectively disarmed them. So that instances of women being able to defend themselves against the attacks of men were rare.[37]

III

While the complex relationship between the labour regime and the phenomenon of women murder can not be taken up here, yet for an understanding of the full implication of the project of the restoration of the family through the creation of a sexual contract, it is important to address the contradictory experience of the Indian indentured woman on the plantations. I shall begin with a characteristic feature of the labour regime viz persistent sex ratio disparity. In the official policy, the issue of sex ratio disparity, was made an accidental feature of the system necessitated by the unavailability of "decent" women. The "immoral" woman of the official discourse was not merely a figure of speech, but had practical policy consequences. If sex ratio imbalance was the cause of "wife" murder, as many officials believed, it could be alleviated by increasing the proportion of women from India; this was a suggestion periodically thrown up by the colonial office. But it

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would invariably meet with stiff opposition from the planters and immigration agents. The immigration agents would argue that, the need was for "decent" women who are, unavailable in requisite numbers, which necessitated the recruitment of women of low "character and caste". And "a fruitful element of disorder and crime is introduced into the colonies by the very means which are adopted to supply the antidote."[38] The invasion of a bunch of "immoral" women. was a potent argument utilised often to scuttle plans of increasing the proportion of women immigrants to the colonies. But why were the planters and their official supporters opposed to the importation of larger number of women?

In the first place, the cost of recruiting single women was higher than that of the men. In the 1890s, it was roughly 50% higher and by the end of indenture it was estimated at double the rate for men. But the cost difference was as much, if not more, a result of the availability, as of the particular nature of the demand of the planters. What was demanded was individual labour units and not "family" units. The latter would have required greater outlay of costs for its reproduction. Pregnant women were a burden and the time spent on nursing and looking after children would amount to loss of valuable labour time.

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Robert Guppy while testifying before the Royal Franchise commission of Trinidad in 1888 recounted an interesting conversation with a planter friend who was setting up barracks to house newly arrived Indian coolies. The barracks with roofs of galvanized irons without any ceilings were unbearably hot in the afternoon. Guppy asked his friend to ceil the roofs as it would be unlivable. The planter replied:

> The people ought to be in the field all day long, I do not build cottages for idlers. I (Guppy) replied "but there may be some sick people, or children, and you will have lying-in and nursing women." "Oh my dear Guppy", said he, "what do you talk to me about lying in and nursing women; I only want working hands". "Then" said I, "you will never have a settled population of labourers on your estate." "A settled population", said he: "I want two years of good crops and good prices, and then I will sell my estates and go to live Europe."39

Since the plantation labour regime for a large part of its career was inimical to the reproduction of the labour force, there was hardly any attempt to recruit family units. Arthur Hill, long time emigration agent for British Guiana in India expressed that concern when he wrote:

> On account of the heavy cost to them in importing labourers, planters used naturally to look for able bodied ones at any rate, to compensate them for their heavy outlay, and <u>families with young children and nursing infants were not regarded as good bargains</u> (emphasis mine).40

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Single men and women would also ensure that once the contract was over the cost of repatriation would remain low. Related to this was an important feature of the labour regime: the wages were kept to the minimum and there was a complete absence of any notion of family wage.

By 1868, a minimum quota of 40 women to 100 men had been fixed by the colonial office. Thus inspite of pleas of shortage of "morally sound" women, their recruitment as indentured wage labour continued.

The Indentured Woman - Bound and Free

The position of Indian indentured women on the plantations was marked by what may be called an ambiguous freedom. It is true that the constraints on women were exactly the same as those on the men, in so far as the labour process was concerned, perhaps even more onerous. But certain factors of this labour regime provided the basis for greater exercise of independent choice by women, when compared to the situation from which they had emigrated. Most of the women who arrived on the plantations being single, their very decision to emigrate was often regarded as a sign of their independence.[41]

This was to a great extent reinforced by their recruitment in the plantation economy as independent wage earners. Their ability to commodify their labour power,

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however under-valued it may have been, provided the objective basis, for the independence of the women. A missionary observer who noticed this in British Guiana in the 1870s wrote:

> Here in Demerara, the condition of the women is greatly enhanced. She earns her own living. The manager pays her wages into her hand and she altogether feels that she is a rational being.

In 1875, the governor of British Guiana was gratified to see, "the numerous instances of thrift and industry, found amongst coolie women". He wrote, "It is the women who are in most cases paying in money, to the Savings Bank or making lodgements of money for remittance to India".[42] To be able to have control over their money was an important index of the changed status of the women. In fact, it was perhaps an important cause of conflict between the labouring women and their male partners.

The status of women as independent wage earners was reinforced by the fact that the indenture labour regime did not assign women the primary role as reproducers of labour. The low rate of reproduction amongst indentured immigrants is a case in point. In British Guiana, between 1838-1869, 18,000 female emigrants had been indentured into the colony, of a total indenture of 70,000 persons, and they gave birth to only 6000 children over these 31 years.[43]

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The recruitment of women as wage earners and freedom from forced reproduction had important consequences. Although there is not much evidence regarding the condition of women during the indenture, but even from the accounts of hostile observers, one gets a picture of the women exercising their choice in a variety of ways. One important element in this was the ability of the women to take decisions, regarding their sexual partners. Sarah Morton, a woman missionary in Trinidad had an interesting encounter with an Indian woman in the 1870s :

> I said to an East Indian woman, whom I knew to be a widow of a brahmin. "You have no relatives in Trinidad I believe." No Madame", she replied", only myself and two children; when the last immigrant ship came in I took a Papa. I will keep him as long as he treats me well. If he does not treat me well, I shall send him off at once; that's the right way, is it not.

Of course, the missionary was shocked by the, "loose notions" with regard to the "marriage practices" and contemptuously thought of the frank expression of the indentured woman to be, "a new view on women's rights !"[44] In British Guiana, during the same period, another missionary observed "Women in this colony feel their power. They are also sure that they can exchange one lord or master for another with the greatest ease."[45]

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The missionaries, however, exaggerated the power of the women more so to condemn it as immoral. What was termed immorality of the women on the plantation was in fact, the possibility of their mobility within a range of marital or other sexual unions. There is enough evidence to show that the unions of men and women on the plantations were marked by a high degree of flexibility. At least six types of households can be identified on the plantations in which women were placed: a single woman with or without a child, single woman being visited by several men sequentially (the visiting union), woman with or without child passing through single male households, polyandrous household, a few polygamous ones and finally the typical monogamous household. Each of these varieties could be more or less temporary. This spectrum of households did not imply sexual choice of the woman alone: more importantly they held out a hope of escape from an oppressive union for them.

Yet, these vignettes of freedom have to be weighed against the enormous odds which faced the Indian woman on the plantations. Primary amongst these was the constant fear of sexual assault, by the plantation managers, overseers and drivers as well as the other male labourers on the plantation. She could exercise her freedom only in a limited way. Too often she had to seek protection of some man or the

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other, or even a group of men. One should perhaps listen to this contradictory experience of freedom and constraint, in the oral account of Maharani, a brahmin widow in Trinidad. She had as her companions five single women from the ship. On arrival these women had taken up with different men, except Maharani, who said :

everybody take one man an gone.
i alone dey / there /
i going to work an i coming
i cooking an eating an ting
only she-fadder want me.

The man who proposed to her (whom she refers to as she-fadder), asked the plantation manager to force her to accept him. The boss asked her :

Maharani you want de man
i say no
e say why
i say
i go go India
just so i tell him
e say y fall sick an ting
you have nobody
you have to take some_body
you alone cyan stop / can not stay /
i say
only i sick an ting
i go see myself
e / manager / tell she fadder
go hold she hand
an e carry me go
e carry me he room
i no want nobody i say
i stop / stay / alone
but she fadder say
i like you

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but i say
me nuh like you
me eh know what happen
an e take me
me eh know how i take im
me eh know how i take im
God alone know. 46

The story of Maharani reveals several features, common to the experience of many indentured women on the plantations. The fact that she worked and earned her wages held out the possibility, of her independence and it was an independence she valued to the extent of refusing to "take one man an gone". But it was a precarious independence; she was exposed to the immense power of the plantation authority structure, exercised by the managers and overseers. It is they who decide that "you alone cyan stop" and she is violently inserted into a union with a man she does not like. The union ordered by the manager is then consummated in what clearly was a rape. If Maharani were to leave the man later and was killed by her "husband", it would have been recorded as yet another case of "unfaithful wife", punished by her "violent husband"!

But Maharani did not "desert" her "husband" and her story took a turn now. Her husband after finishing the indenture contract settled in a village. Maharani was permitted by the manager to shift to the village even though her contract period was not over. Gradually Maharani from

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labouring on the plantation ends up labouring at home, "do house wuk, wash barrick room, wash clothes, fill water, bath, all dat.." and perhaps also in the fields of her husband. She did not go back to India, as she becomes a mother, busy raising her "cheren" [children].[47]

The transition in the woman's status, from a wage earner to an unpaid worker at home, from a producer to a reproducer, became towards the end of the century, increasingly a common experience of the indentured women. Two factors were important in this transition. First was a shift in the plantation labour regime and the second, a coeval crystallisation of the ideology of the "family".

IV

The Shift in the Labour Regime

The long crisis of the late 19th century in the world capitalist economy beginning from 1873, soon reached the caribbean shores. Throughout the 1870s, the price of sugar fell gradually, but in 1884 the bottom really gave way when prices suddenly slumped by half. With only a few partial recoveries in between, the sugar prices remained consistently low until the beginning of the first world war. The crisis was aggravated by the large scale dumping of bounty fed continental beet sugar in Britain. The plantation economy consequently plunged into a deep depression.

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Far reaching changes were initiated both by the activity of the plantation labour and the planters in their efforts to cope with the crisis. Together, these changes marked a shift in the basic character of the plantation labour regime. From legal coercion of the labour, there grew a tendency towards coercion through the labour market, i.e., from the importation of labour under indenture, there was a shift towards the use of locally reproduced labour. No doubt though, that these changes were halting and were fully operative only after the complete abolition of indenture, much later.[48]

During the crisis, the plantation ownership structure changed dramatically, with the decline of small planters and residential owners. A sharp reduction in the number of estates occurred largely due to a two way process of abandonment and amalgamation of estates. The sugar cane acreage stagnated as also the production of sugar. The most important changes, were however in the drastic reduction of the wage bill on the plantations. Adamson has calculated that the total wage bill in British Guiana might have been reduced in 1900 to a third of what it was in 1880.[49] The cost of production of sugar was reduced mainly by increasing the size of the standard "task", curtailment of the wage rate of both the indentured and free labour employed on the plantation and also by direct retrenchment.[50]

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It is during this period of crisis, that a substantial movement of the plantation labour away from the plantations emerged. In Trinidad so large was this movement that D.W.D. Commins termed it, a "secession of free coolies", from the estates.[51] In Trinidad by 1901, 64000 Indians were residing outside the plantations compared to 16000 residents. In British Guiana, the movement was equally dramatic between 1881 and 1901, Indian population resident outside the plantations, increased from 17000 to 57000, most of it occurring in the last decade of the 19th century.[52] The outward movement of the immigrant labour was to a great extent facilitated by easier grants of crown lands by the colonial state. As the social valence of the plantation sector declined during the long crisis, the colonial state could override the traditional objection of the planters that easy availability of crown land would endanger the labour supply for the plantations. Fear of a social crisis in the wake of the depression also allowed for the emergence of an alternative vision of society, no longer based on the plantations. This was articulated strongly in the recommendation of the Royal Commission appointed in 1897 to enquire into the crisis of the sugar industry. The commission refused to accede to the planters' demand for countervailing duty on bounty fed continental beet sugar and other forms of subsidies to the West Indian

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sugar; instead as a solution to the crisis it recommended "the settlement of the labouring population on small plots of land as peasant proprietors".[53]

The movement away from the plantation and into the villages, was due to the desperate need of the labourers, both to diversify their subsistence base and to escape the strangle hold of the plantation labour regime. From the stand point of the colonial state and subsequently of the plantocracy a major consideration was the relative rise in the cost of importation and repatriation of labour during the period of falling sugar prices. The desire to settle the labourers, rather than repatriate them became a major policy goal.[54] This, however, did not mean a complete disruption of connection between the sugar economy and the "settlers". The planters now sought to rein in the movement to their advantage, by transferring a substantial portion of the cost of reproduction of labour to the ex-labourers house- hold. This strategy of tapping the movement of the labourers, was a significant departure from the planters' traditional opposition to the independent subsistence activity of the labourers.

Two specific developments, the rise of cane and rice farming among the ex-indentured labourers in Trinidad and Guyana respectively, illustrate well both the planters'

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strategy and the changing relation of the labourers with the plantation economy. In Trinidad, cane farming was initiated by the planters as a response to the crisis of the 1880s, by leasing out portions of the estate land to the free labourers. By 1902, the peasant produced cane was according to one calculation, half the total cane milled in Trinidad.[55] Apart from the lower cost of the peasant cane, a major reason for introducing it was, to have a reserve labour force around the estates. Thus it was usual for the planters to limit the plots on estates to units manageable by a family on condition that they devote part of the time to estate cultivation.[56] Indians were allowed to grow cane outside the estates on crown lands from 1888 and by 1906, they were the major suppliers of cane to the factories. Most of the farms outside the estates remained small plots between one twentieth to three acres in size, usually "cultivated by a man and his family".[57] The plantations in Trinidad by 1900 were relying increasingly on the embodied labour of the entire house- hold, rather than the exploitation of individual units of labour, as was the case earlier.

In British Guiana, the major economic activity of the ex-labourers was rice farming, initiated on the front lands of the estates, during the 1880s. By 1897, 15000

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acres were under rice cultivation. After 1898, when crown lands became available in small lots, there was a rapid expansion of rice and some 40,000 acres were under rice by 1911. The close relation between plantation labour needs and the embryonic rice farming was evident from the earliest such arrangement devised in 1880 in the plantation L'Amite. The crown surveyor had specifically mentioned that the size of the plots should be such that the "quantity assigned each man or family would not occupy the time of either himself or his family exclusively", and they would still be available, occasionally as workers, in the sugar estates.[58] From 1884, with the crisis in sugar prices there was a growing practice of renting out small plots of rice land to the free labourers. Lesley Potter has described the rice farmers attached to the estates as well as those farming elsewhere as a "paddy proletariat", who were part time estate workers and additionally bore the cost of reproduction of their own labour power.[59]

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In each of the two developments mentioned above, we can notice a change in the planter strategy, which found in the emergence of the semi-peasant sector among the ex-laborers a possibility of labour control based on the family labour of the house- hold. The shift in planter strategy of course had a bearing on the role of the women labourers.

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That the planters increasingly conceived of the women, primarily as reproducers of labour, is clear from two pieces of evidence. First, in 1891 the normally cost conscious planters in Trinidad and British Guiana, reduced the period of indenture contract for women from 5 to 2 years. Second, in the only detailed account of wage figures available for a plantation in Trinidad (Brechin Castle), in 1907-08, we find that 181 women immigrant labour on the plantation worked on an average only a third of the legal minimum of 280 days earning a meager 5.3 cents per day through the year.[60] Clearly a large part of the woman's work was outside the plantations, in the household and on the subsistence plots. The transformation of the wage earning woman labourer to an unpaid worker on the household was a necessary concomitant of the emergent plantation strategy of labour control. This transformation was to a degree anticipated and greatly consolidated in a discourse that surrounded the making laws for the Indian immigrants in the late 19th century British Caribbean colonies of Trinidad and Guiana.

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V

Restoring or Creating The Family?

In the late 1870s and more intensely, throughout the 1880s, the colonial officials were occupied with fashioning a piece of legislation to regulate the "unsatisfactory domestic affairs" of the Indian migrant labourers, as evidenced in the growing incidence of "wife" murders. Persistence of the incidence of "wife" murders, inspite of the maximum deterrence of death sentence, strengthened the belief that a preventive legislation was necessary alongside the existing punitive measures. A second consideration, which became increasingly important during the crisis of the late 19th century was that of the family, more so, because it was now to be invested with the important function of reproducing labour. For both these goals to be realised it was considered essential that the unions of the Indian men and women be stabilised by providing them a legal foundation backed by the powers of the state. The marriage laws were formulated to ensure orderly access to the women's bodies, by curbing the "immoral" nature of the women and channelise the violent instincts of the men. The image of the family that the colonial state gradually inscribed into the law of marriage was a patriarchal one which assigned to the woman the role, primarily that of a

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reproducer. In this final section of my paper, I intend to uncover the traces of this inscription in the marriage laws.

A brief chronology of the evolution of the marriage laws may be in place here. The marriage ordinances were initially evolved outside the immigration labour ordinances. The first legislation was in British Guiana in 1863, called the "Heathen Marriage ordinance no 10 of 1860". It was substantially amended in 1887 and finally incorporated within the comprehensive Immigration Labour Ordinance of 1891, legislated in 1894. In Trinidad, the marriage ordinance came into being in 1881 and after a series of subsidiary legislation, it was incorporated in the immigration Labour Ordinance in 1899. Significantly, while all other provisions of the labour ordinance were applicable only to the immigrants indentured on the plantations, a special definition of immigrants in the marriage chapters made it applicable to all immigrants, whether free or indentured and also to the descendants of such immigrants.

Marriage laws had two distinct aspects. The first related to the formalisation of the institution of marriage; the procedures by which a marriage could be legalised and dissolved. The second, related to what was known as the offenses against marriage. This was the "coercive" section

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of the marriage laws that prescribed punishments and remedies against violations of the marriage, and thereby effectively guaranteed the institution of marriage. Using Pateman's terms the former was about the marriage contract while the latter related to the sexual contract. The formalisation of marriages was a necessary precondition for the guarantee of the state to become operative. The debate on the procedures of formalisation and provisions for dissolution of marriage are in themselves interesting and important. For the purposes of the paper, I shall concentrate only on the clauses on the offenses: it was in the discourse around these clauses, that the ideological constitution of the family and the transformation in the role of the women, necessary for such a constitution can be uncovered. I shall take up three clauses relating to Offenses Against Marriage for discussion here.

A primary function of the marriage laws was to prevent the incidence of "wife" murder. One set of preventive mechanism, that originated outside the marriage laws proper and were finally incorporated into it, were called the transfer clauses. These were a set of ordinances which enabled a magistrate of the colony, when informed by a female immigrant or any other person (eg. a manager or an overseer), that the life of a woman was in danger, because

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of the threats by her husband or the person with whom she cohabited, to transfer either of the parties to another plantation. The crucial role in this had to be played by the manager or the overseer. They were to lay the charges before the magistrates if they apprehended violence leading to murder. In 1868, the governor of British Guiana proposed a fine of $100 for managers, who in cases of wife murder were found to have been negligent in not separating the husband or the wife.[61] Between 1862 and 1870, in British Guiana, there were 130 instances of transfers in what were called the "wife cases".

Significantly, in most cases, it was the threatening "husband" who was transferred and only in a few cases the threatened woman.[62] But this mode of transferring the "husband", was not considered a satisfactory solution to the problem. It was James Crosby, the legendary immigration agent general of British Guyana, who pointed out that the law as it was applied had actually resulted in the separation of families. He said, before the British Guiana Commission in 1870:

> I have been much distressed to be obliged to separate people who have been living together ten or twelve years and have had children. It has been a very painful thing".[63]

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Also, the transfers were often done hastily. Crosby alleged that the magistrates did not always go into the full facts of the case, when ordering the removal of the husband or breaking up the family. According to him the most important omission was that the "seducer" of the woman was not removed. Crosby was clear in his sympathies:

> ...the husband was, "generally the least to blame of the lot. Somebody has taken away his wife, and that person is the most guilty."[64]

Crosby, pointed to the contradictory effects of the law of transfer. In the short term, the removal of the threatening "husband", could prevent murder while the action may hinder the long term goal of creating and stabilising the "family", in so far as it encouraged the women to desert their husbands and the "seducer" to remain unpunished. Crosby and other officials were also concerned that the provisions of the transfer clauses had been used or abused by women in many instances to get rid of their male partners.[65] He advocated far greater care and fuller investigation in handling the "wife cases", to combat the "extreme violence of feeling in the Asiatic, in whom the passion of jealousy is so great as to be uncontrollable". He implied, that the removal of husbands did nothing to assuage this extreme passion and might have, in fact, accentuated it.

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Crosby's opinions on the law of transfer found support in the British Guiana Commission, which recommended that the law be amended to allow the removal of the "seducer". The 1873 immigration ordinance of British Guiana, broadened the scope of the transfer clause by providing for the transfer of the indentured immigrant who was the cause of jealousy (the "seducer"). The British Guiana transfer laws, it may be noted remained unchanged till the end of the indenture period, and were adopted in other colonies. In Trinidad these were adopted in 1885.

Clearly there was a growing concern to maintain a stable family unit. However, defining the family in non-legal terms remained a problem. How was a wife to be designated and who was the husband? The solutions could only be arbitrary in a situation where alliances between men and women were fluid. The appearance of the figure of the seducer in the legal discourse, suggests that the initial union and the length of the union were factors determining the status of a couple being designated as husband and wife.

The notion of the sanctity of the domestic sphere, was now inscribed in the law of transfer. The household was to be guarded against the seducer, and for this, it had to be continuously monitored for the signs of discord or when the wife was vulnerable to seduction, thus endangering the stability of the household. And herein lay the

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crucial importance of the managers and the overseers. In 1868, the governor rued the fact that the managers were unconcerned about the domestic affairs of the indentured labourers, "not even instructing their headman to make an immediate report in all cases in which women leave their husbands or reputed husbands to cohabit with other men".[66] The British Guiana commission wanted the managers to play a much greater role in both monitoring the household as also in "settling" the disputes, before applying for removal. The secretary of state of colonies suggested that, the allotment of immigrants to a plantation be stopped where the managers had been "culpably remiss" in their supervision.[67]

However, the transfer clause had not explicitly recognised that the threat to the stability of the "family" was not only from outside but from within it. The problem hinged on the subjectivity of the woman: whether she was to be regarded as an object of seduction or as someone exercising a <u>wilful</u> choice? The provision for removal of the "seducer", had a dual purpose - it served to define the family unit and simultaneously imposed limits on the social space available to the woman to exercise her choice of sexual partners.

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A much greater supervision of coolie domestic lives had begun after the 1873 ordinance was enacted in British Guiana. It is evidenced in the growing practice of transfer untilised in the so called "wife cases". Between 1881 and 1890, 57 persons were transferred per year in British Guiana and between 1891 and 1900, 65 persons were transferred per year.[68] The figures for earlier years in Guiana and for Trinidad are not available. From the bare statistics it is not possible to examine trends in the figures for transfers of the so called seducers as opposed to husbands or wives over time. Neither is it possible to gauge the effectiveness of the strategy of removal in the prevention of wife murder. But what is clear is that the transfer law entailed a more intimate surveillance of the domestic life of the labourers. As family on the plantation, was rendered inviolable to seduction, simultaneously, it was made more visible to the labour regime.[69]

Efforts to formulate a marriage law for the Indian immigrants were intensified during the 1880s, precisely when the sugar economy entered into a deep depression. The concern of the colonial state and the plantocracy shifted ever so gradually to the constitution of family as a site for the reproduction of labour and consequently to the obstacles to its stability. In 1885, the governor of British

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Guiana hoped that the marriage laws would help evolve the "Indian family life of its original type", from the unsatisfactory condition of "polyandry prevalent among the indentured class".[70] The Attorney General of the colony argued that polyandry was the chief cause of the low birth rate among Indians:

> Where a large proportion of the women have each three males cohabiting with them, it can not be expected that birth rate will be satisfactory.[71]

It was argued that with the stability of marriage and the institution of the monogamous family, there would be a greater population growth, rendering immigration unnecessary.[72]

Polyandrism, however, was seen as a symptom of a deeper malaise: it was adultery which was at its root. By adultery what was implied was not the infidelity of the men, but primarily the infidelity of the women. The infidelity of the men was regarded "natural", in a situation of disproportionate sex ratio; while the infidelity of the women was dangerous provocation of the "natural" jealousy in the men, who then reckless of consequence, killed the women. Female infidelity, was now inevitably held to be the real destabiliser of the family. In 1874 the governor of Trinidad was doubtful, if any legislation could suppress the adulterous habits of the coolie men since:

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> the fear of death does not prevent the coolie from gratifying his revenge and it is not possible that the fear of fines or punishment will deter coolies from indulging in some of the strongest passions of human nature. 73

An official of British Guiana was sure that "the attempt to restrict sexual passions of men in a tropical country placed in these unnatural conditions must always be to a greater extent, futile"[74] Since passions of men could only be channelised and not tamed, those of women, therefore, needed curbing and it is to this need that the law makers now turned their attention.

In 1887, the governor of British Guiana, wanted the marriage law to provide the security of a legal status such as, "to destroy the notion that a girl can be transferred from a husband to whom she has been assigned .. to another man by .. the caprice on the part of the woman."[75] The marriage laws were thus to act as a device for controlling the "fickleness" of the woman. The demand for the punishment for infidelity of the woman followed logically. Many officials and zealous guardians of morals demanded that the Indian women be punished for adultery. In 1870, the British Guiana commission recommended that the adulterous women be publicly disgraced by having their heads shaved.[76] Missionary Bronkhurst cited the Institutes Of Manu to justify the punishment of women.[77] And in 1881,

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274 Indian immigrants inspired by Missionary John Morton demanded that the women be imprisoned for leaving their husbands for a lover.[78] But corporeal punishment or imprisonment of women for adultery was rejected by the colonial office, on the ground that there was no provision for it either in the English Law or in the laws of the colonies.

Many officials, anyway, were of the opinion that the solution to the problem of infidelity of women could be found in strictly punishing their paramours. Once again the obstacle to this was that in none of the caribbean colonies nor in the English law was adultery a punishable offence. The governor of Trinidad was opposed to the introduction of punishment for adultery in the marriage laws, only for the Indians, arguing that criminality of an act should not depend on the race of the person. But his was a lone voice of opposition.[79]

The way out of this tricky problem was sought in some of the provisions of the British Guiana Heathen Marriage Ordinance of 1860. It had a clause providing for the punishment, for the enticement of "wives registered under the ordinance". So, if not adultery then enticement could serve the purpose for enforcing punitive measures against the paramours of the married women. But "enticement" implied that

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the woman had been taken away against her will or had been deceived by the seducer. How was this law to take into account the wilful infidelity of wives, which was considered the most potent threat to the stability of the family and a great incitement to violence among the husbands?

The problem now was in proving enticement. In 1887 a case came up before the magistrate in Trinidad in which the woman an indentured labourer had repeatedly left her husband complaining of ill treatment and beating by him. She left her husband to live with another man who was charged by the husband with enticing his wife. The magistrate was constrained to observe:

> I could not prove that the defendant took her to his house himself and if I were to put the woman to the box she is likely to say that she went of her own will.

Accordingly the charge fell through and the magistrate hoped that the law would be amended to deal with cases of "detaining and concealing of a married woman".[80] James Crosby had been the first to suggest in 1870, an amendment to the clause which would take into account the willing seduction of wives. As he put it, "..the women go away without enticement at all, an ill-inclination possessing them on their part". He had suggested that the presence of a woman in the house of the "seducer" be taken as sufficient evidence of enticement.[81] By the 1880s, with the rising

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concern for the "stability of the family" and a spurt in the incidence of woman murder, the enticement clause received fresh notice. The protector of immigrants of Trinidad in 1885, advocated a change in the enticement clause because,

> the wife generally does so (leave her husband) to live with a younger or more wealthy man, and will not admit she was enticed away or detained as she was of her own accord preferring the man to her husband.

He suggested that since in most cases the offender certainly does not detain the woman, therefore "harbouring" of a married woman should be made a punishable offence.[82]

The final version of the law as enacted in British Guiana and in Trinidad in the 1887 and 1890, made harbouring a wife who had left her husband, punishable, with imprisonment of six months and a fine and a much stiffer penalty, if the offence was repeated. In 1899 in British Guiana Abilak an indentured labour on Plantation was charged by Buckais for having harboured his wife. The wife was discovered to have hidden herself in a flour barrel in Abilak's house and had refused to return. Abilak was fined and imprisoned and the wife forced to return to her husband.[83] The harbouring clause was an important strand in the web of legal prohibitions that now sought to restrict the mobility and choice of women to the home of her husband. Under the definition of the harbouring clause a married woman now could

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not even seek refuge in her natal home.[84] It is interesting that, the enticement/harbouring clause in the marriage laws bore an uncanny resemblance to a clause in the labour ordinance (central to the indentured system): that which punished the employer or harbourer, of a deserter from the plantation. This was designed to immobilise the labour and to prevent it from taking advantage of the competition for scarce labour. It is not a mere coincidence that the harbouring clause in the marriage laws similarly sought to immobilise the woman.

The ideological underpinning of the legally constituted family was the subjection of the woman's sexuality to the service of a single man. This was the intended effect of the stringent punishment of the "seducer", "enticer" or the "harbourer" of the married woman. There was a built in asymmetry of positions in the law between the husband and the wife. The latter was effectively denied choice of a sexual relation outside the marriage and a place of refuge outside of her husband's home, while the former was only prohibited from sexual relation with other married women. This anomaly was not accidental, but was in fact the effect of the central function of the law which sought to control primarily the infidelity of the woman and not of the man, in its project of restoring the family. This becomes evident in the final feature of the marriage laws that I want to discuss.

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In 1881, the governor of Trinidad received a petition from 274 Indian immigrants, all males, seeking an amendment in the recently enacted marriage ordinance.[85] The petition was inspired by the Canadian Presbyterian missionary, John Morton who had been consulted by the government in the drafting of the ordinance. The petitioners demanded that the law be amended, a) to allow for prosecution for damages from an "unfaithful spouse and their (sic) partners in guilt ..with provision for imprisonment if the damages be not paid", b) imprisonment of women, if they refuse to return to their husbands and c) continued prosecution of the parties, if the offence be persisted in.

The petition which began by demanding the gender neutral right of "any person married ...to prosecute their unfaithful spouse and their partners in guilt", through the course of the petition itself, changed to a gender specific demand of "injured" husbands to prosecute wives and demand compensation from the paramours. The petitioners wrote that, "divorce is not what the Indian (male) desires, but to guard his household and if his rights are invaded to obtain redress and satisfaction". The husbands assured that, "legal redress being placed within their reach, few wife murders will occur". The possibility was thus held out, of exchanging a "violent passion" for monetary compensation.

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The calculus of exchange did not emerge solely from a felt need of the "injured" husbands - it had been a part of the official discourse for some time. The earliest such proposal had been put forward by James Crosby, before the British Guiana Commission in 1870. He had suggested that, in case of a wife leaving the husband for another man, the "seducer", apart from being punished, should also be fined and the money thus got should be paid to the husband. This, he had hoped would entirely do away with the cases of wife murders.[86]

In 1883, the question of allowing, compensation to the husbands received serious consideration in the official circles. Interestingly precisely in 1882 the law of crim con that allowed a husband to sue for damages from a paramour had been abolished in England and the right of an abandoned woman to sue for damages from her husband established. Yet the issue, in the context of the colonies was discussed solely in terms of the need to compensate the "injured" husband so as to dissuade him from murdering the wife. The British Guiana governor wrote in 1883:

> The instinct of the injured man is to avenge himself by slaying the woman, and the practical question is whether he can be by any means induced to exchange this barbarious form of vengeance for the more civilised one of recovering damages from his successful rival."[87]

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The important point here is, that the desire for revenge on the part of the husband, was represented as normal and understandable and hence, the emphasis on assuaging the feelings of the 'injured' husband. The form of revenge, however now was to be 'civilised'-money in return for life.

Significantly, no notice was taken of the original wording of the petition which had asked for the right to civil damages for <u>both the spouses</u>. The "injured" husband and his passions seem to have over-ridden any notion of equity. The law member of the council in India noticed the omission :

> The petitioners seem to contemplate also of a wife prosecuting her husband for having sexual intercourse with another woman...we do not support it...I would not admit the sauce for the goose, sauce for the gander argument.[88]

The law makers felt no need to go into the question of the rights of a woman who was abandoned by her husband for another woman, since as the government of India reasoned "...there is not the same need for strong measures as in the case of the husband suing the paramour".[89]

The discourse on the construction of the family, being premised on the "unfaithful wife", the category of the "unfaithful husband", did not exist at all. So to invest the woman with equal right to sue for damages would in fact, have led to greater <u>instability</u> of the "family". The law member was frank enough to admit :

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> ..if you give the woman facilities for prosecuting her husband you would break up half the families in the place. 90

In the interest of the family, therefore, the statutes granting the right of the husband to have access both to criminal prosecution and civil damages were incorporated into the marriage law ordinances by the 1890s.[91] These ordinances, explicitly in some cases and implicitly otherwise, deprived women of similar rights.

By the end of the 19th century, the legal construction of the Indian family was complete. In the process it had empowered the husband, immobilised the wife and robbed her of rights as an equal subject. The power of the state was now put at the service of a patriarchal family installed by law.

In one important way however the intentions of the lawmakers did not bear the desired results. After the marriage laws had been put in place they had hoped for speedy and universal registration of Indian marriages. Even though the Indian form of marriages, both Hindu and Muslim, had been recognised, their validity was dependent on extremely bureaucratic forms of registration. The rate of registered marriages under the ordinances remained low for a long period of time. In the post indentured period, there was increasing demand from the Indian community,

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that the state recognise the form of Indian marriages without the need for registration. History of this struggle with the state is an important moment in the cultural formation of the Indian community and can not be fully discussed here.

It is important to emphasise though, that the contest was primarily over the legal form of the marriage and never over the fundamental assumptions of the colonial construction of the family inscribed in the coercive sections of the marriage ordinances. In Pateman's terms, what was contested was the form of the marriage contract and never the content of the sexual contract. Even after the Indian marriages were legally recognised (1931 and 1946 in Trinidad and 1958 in the British Guiana), the punitive sections of the ordinances were retained. It might be added that in the caribbean it is only the Indian community whose marriage laws contained explicitly these punitive sections while the general law of marriage of the colony contained no such provisions. In that sense then, the 19th century legal construction of the Indian family has been eminently successful. The shades of "unfaithful" wives and their "violent" husbands, still hover over the Indian family in the Caribbean.

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Conclusion

In this paper I have outlined the construction of Indian family as a legal object; locating its emergence within three sets of transitions, more or less coeval. First the transition within the official discourse as it slowly shifted from a discourse on wife murder to one on the family, second the transition in the role of the women on the plantation and finally the overarching shift in the objective structures of the labour regime. Family as a legal construct or as an object of legal discourse was however not exactly coincident with the Indian family as a social and cultural entity that took shape on the ground. Not all Indian families became what the colonial construction made it out to be and neither did the Indian women all recede into the confines of their husbands' homes. There was resistance and successful ones at that against the imposition of a full patriarchal norms. But neither was the family as a legal construct a mere fiction taking place only in the minds of the officials and the planters. It altered the contours of the struggle that marked the formation of the Indian family. The social history of the Indian family in the caribbean plantation colonies can not be written without an account of the cultural values and ideals, contested as these were, which the Indian labourers

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invested in the institution. But nor would it be complete without an understanding of the ways in which the legal construction of the Indian family itself became an important ingredient of these values and ideals. This paper is written as a first step towards an understanding of the complex interaction between representation and reality of the institution of Indian family in the caribbean colonies.

Abbreviations:

BG--British Guiana.

CO--Colonial Office.

IOL--India Office Library.

NAI--National Archives of India.

PRO--Public Record Office.

SOS--Secretary of State.

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FOOTNOTES

1. Timheri: The Journal of the Royal Agricultural Society of British Guiana, vol VI, Third series, Sept. 1919. Argosy, Georgetown.

2. H. Tinker, A New System of Slavery, Oxford Univ. Press, 1974 . esp chapter 9 remains the best account of the Indenture system. The book that had the maximum impact on the decline of the system was, C.F. Andrews and W.W. Pearson, Indian Labour In Fiji; An Independent Inquiry, Delhi, 1915. For the most recent and an excellent analysis of the discourse, both official and nationalist surrounding the end of the indenture, see John Kelly, A Politics of Virtue, Chicago Univ. Press, Chicago, 1991, chapter 2.

3. E. Jenkins, The Coolie: His Rights and Wrongs, Routledge and Sons New York, 1871, p.213.

4. James Rodway, "Labour and Colonisation - The Outlook", in Timheri, Sept. 1919, p. 37.

5. Despatch of governor of British Guiana to SOS of colonies dt. 16th Oct., 1885 no 295 in Emig. A March 1886 Prog. no 2.

6. Carole Pateman, The Sexual Contract, Cambridge, 1988.

7. For a similar argument in case of the indenture labour system in Assam tea plantations see Rana P. Behal and Prabhu P. Mohapatra, "Tea and Money Versus Human life : The Rise and fall of the Indenture system in the Assam Tea Plantations 1840-1908" in E. Valentine Daniel, H. Bernstein and Tom Brass (ed) Plantations, Peasants and Proletarians in Colonial Asia, Frank Cass, London, 1992, pp 142-173.

8. Walcott to Herbert, 6th Sept. 1871, in Emig. A Prog. no 12 Nov. 1871.

9. John Scoble, A Brief Exposure of the Deplorable Condition of the Hill Coolies in British Guiana and Mauritious, London, 1850.

10. Circular of Governor Hincks, 19th Nov. 1868, in CO/ 369/no 162 PRO.

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11. Calculated from the various Annual Reports on Immigration of British Guiana and Trinidad. These reports were entitled Report of the Immigration Agent General of British Guiana and Report of the Protector of Immigrants of Trinidad respectively and are available in the NAI, New Delhi in the Emigration proceedings and in the Colonial office records in the PRO, London.

12. Another feature of the data is discernible spurts in the number of women and wife murders during the late 1880s and 1894-1897. Thus in British Guiana between 1885 and 1889, 32 women were murdered, which was about the same number that were murdered between 1872 and 1881. Similarly between 1894 and 1897, 24 women were murdered. In Trinidad such spurts are noticeable broadly in the late 1880s and between 1894 and 1898.

13. Chief Justice to Governor of British Guiana, 3rd August 1882 in CO/384/139 no 320, PRO.

14. Report on Immigration into Trinidad for the year 1868, in Home Public A, August 6, 1870, Prog. no 68, NAI.

15. H.V.P. Bronkhurst, The Colony of British Guiana and its Labouring Population, London 1883, p 247 and p 401.

16. "The new coolie believes in caste and pretentiously sticks to its tenets for his first few years in the colony: and hence the wife murder". E.A.V.Abraham, "The East Indian Coolie in British Guiana" in West Indian Quarterly, vol 2, 1886, Argosy, Georgetown.

17. Report of the Immigration Agent General of British Guiana, for the year 1896 and 1901. Christian missionaries, like Bronkhurst, who had spent considerable time in India, lent weight to this argument, by showing that the Hindus believed that adultery was punishable by death and it was on this belief that they acted in the colonies. H.V.P.Bronkhurst, The Colony of British Guiana and its Labouring Population, London, 1883, p 401.

18. Scott to Earl of Kimberly, 18th July 1871, CO/111/386 no 120, PRO.

19. The results of the investigation and the discussion around it are in files Emig. A, Nov. 1871, Prog. no 12 and Emig. A, Jan. 1873, Prog. no. 1, NAI. The results were not found to be conclusive either way, largely because the population samples were not comparable.

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20. Minute of C. Murdoch, dt. 18th Oct. 1873, in Emig. A, Jan. 1873, Prog. no. 1, NAI.

21. H.V.P. Bronkhurst, op cit. p 244.

22. "Report of the Protector of Immigrants in Trinidad for the year 1881", para 21, in Emig. A, July 1882, Prog. no 3-4, NAI.

23. Governor British Guiana to SOS colonies 12th Sept. 1876, CO 111/384, no. 196, PRO.

24. The Trinidad protector of immigrants, noted in 1885 that not a single murder had occurred, of the male rival, till that year. The first murder of a man over sexual jealousy occurred in British Guiana in 1889. C. Mitchell to Col. Secy. 1st Jan. 1885 in Emig. A, July 1886 Prog. no 3-7. See also Report of the Immigration Agent General of British Guiana for the year 1889.

25. Scott to Earl of Kimberly 18th July 1871, CO/111/386, no 106, PRO.

26. This scenario with slight variation can be found in many official accounts of the 1870s and 1880s. See for instance Scott to SOS colonies 15th August 1870 no 100 CO/111/376 PRO and The Chief Justice to Governor British Guiana 3 August 1882 in CO/384/139 PRO.

27. Accounts of women murders in the unofficial records like the contemporary newspapers had similar images of the "immoral woman" and "sexual jealousy" as dominant motifs. A set of short stories published in the Guyana Daily Chronicle under the title of "Tales of the Tropics" in the 1890s, perhaps are the earliest literary representations of the immoral Indian woman who seduced the hapless white overseer and managers and excited jealousy in her Indian husband. These stories usually ended tragically with the death of the woman murdered by her jealous husband. See specially "Karimbachus No-Ex "Ganges" in The Daily Chronicle of June 25, 1899 and other stories under the series "Tales of the Tropics" in Dec. 3, 7 and 10 of 1899 in the same paper.

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28. Governor Scott to Earl of Kimberly, 22nd August, Georgetown in L/P&J/2/66, 8/20, IOL.

29. "The Official Gazette", 12the December 1863 and governor to SOS, no 199, 17th Dec. 1863 in CO/111/342, PRO.

30. The Governor of British Guiana had commuted the death sentence of Moonasammy an indentured labourer who had murdered his wife admitting that he was gravely provoked by his wife committing an act of infidelity, for which the colonial office admonished him for a "loose use" of the term provocation and reminded him specifically about the 1863 proclamation. Enclosure, SOS to governor, no 162, 19th Nov. 1871 CO 111/369, PRO. In 1877 again the SOS of colonies asked the Governor of British Guiana to ensure that the judges do not pass lenient sentences which was partially the cause of frequency of crimes of violence in the colonies. Enclosure to Despatch no 133, 16th June 1877 CO 384/115.

31. Report of the Immigration Agent General of British Guiana for the year 1905-06 and 1915-16 respectively.

32. For instance see the comments of the Acting immigration agent general of British Guiana in the Report of the Immigration Agent General of British Guiana for the year 1876, p 4, and the opinion of the chief justice of the colony in 1882 in Enclosure, Governor to SOS, no 320, 1st Nov., CO/384/139, PRO.

33. H.V.P.Bronkhurst, The Colony of British Guiana and its Labouring Population (London, 1883) p. 251.

34. ibid p.299.

35. See Note of E.Wingfield in CO/384/139 no 320, PRO.

36. A fuller analysis of the phenomenon of women murders in the context of the changing labour regime on the caribbean plantations is part of my current project on the cultural formation of Indian labourers during the indentured period. For an uncritical acceptance of the official premises of wife murders see B. Mangru "The Sex Ratio Disparity and its Consequences under the Indenture in British Guiana" in D. Dabydeen and B. Samaroo (ed) India in the Caribbean, London, 1987,

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pp 211-230. For a more sensitive analysis of the phenomena emphasising a greater role for the structure of the labour regime in the Fiji plantations see B.V. Lal, "Kunti's Cry: Indentured Women on Fiji's Plantations" in Indian Economic and Social History Review, Vol 22, 1985, pp 55-72. Lal argues more effectively against the official explanation of sexual jealousy as cause of male suicides on the Fiji plantations in "Veil of Dishonour: Sexual Jealousy on Fiji Plantations" in Journal of Pacific History, 1986, pp 135-155.

37. The only instance, I found of a woman attacking a man with a weapon was in 1914, on Plantation Wales in British Guiana. The woman attacked an overseer, who had tried to rape her, inflicting two wounds with a cutlass. The charge of rape was dismissed and the woman was put behind bars for five years. It is presumable that the structure of work perhaps had altered by the end of indenture period and a few women who worked on the plantations were being employed in the heavy task of cutting canes with cutlasses. "Report of the Immigration Agent General of British Guiana for the year 1914-1915" in Emig. B. May 1916 Prog. no 4-5 NAI.

38. Joint letter of British Guiana and Trinidad Immigration Agents to Colonial office April 1868 cited in Minute of E. Murdrock dt. 16th Nov. 1876 no 195, CO/111/384, PRO.

39. Robert Guppy's Report, 16th meeting of the Royal Commission in Proceedings of the Royal Commission to Consider and Report as to the Proposed Franchise and Division of the Colony into Electoral Districts, Trinidad. Port of Spain, 1888, p 27.

40. Arthur H. Hill, "Emigration from India", Timheri, vol. 6, third series, September 1919, Argosy, Georgetown, p 44.

41. For a forceful argument along these lines see the pioneering work of Rhoda Reddock "Freedom Denied: Indian Women and Indentureship in Trinidad and tobago, 1845-1917" in Review of Women Studies, Economic and Political Weekly, Vol XX, No 43, Oct. 1985, pp Ws 79-87. Some of her extreme formulations were challenged in R.K. Jain "Freedom Denied: A Reply" in Economic

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and Political Weekly, Vol XXI, 1986. For a revisionist argument that greatly exaggerates the enabling condition of indenture for Indian women see P.C. Emmer "The Great Escape: The Migration of Female Indentured Servants from British India to Surinam 1873-1916" in David Richardson (ed), Abolition and its Aftermath: The Historical Context, 1790-1916, Frank Cass, London, 1985.

42. Young to M. Hicks Beach, 24 May 1879, no 133, CO/384/123, PRO.

43. Calculated from the figures of births and deaths in D.W.D Commins, Note on Emigration to British Guiana, Calcutta, 1893, p.19.

44. Sarah Morton, John Morton of Trinidad, Westminister company, Toronto, 1916, p 342.

45. Archdeacon Josa cited in David. J. Dodd "The Well-springs of Violence: Some Historical Notes on East Indian Criminality in Guyana." Caribbean Issues, 2, no 3, 1976 p 11.

46. Account of Maharani in N.K. Mahabir (ed) The Still Cry, Calaloux Publications, Ithaca, New York, 1985, pp 84-85.

47. ibid pp 87-88.

48. For a comprehensive account of the impact of the crisis in British Guiana see Walter Rodney, A History of the Guyanese Working People, Johns Hopkins University Press, Baltimore, 1981 p 19-30 and passim.

49. Alan. H. Adamson, "The Impact of Indentured Immigration on the Political Economy of British Guiana" in Kay Saunders (ed) Indentured Labour in the British Empire, 1834-1920, Croom Helm, London, p 48.

50. The wage rate of the free labour by 1886 had fallen to a third of the rate in the 1880s. Paradoxically, there was thus a tendency to substitute free labour for indentured labour in many estates in British Guiana. In the 1890s there was retrenchment of workers on many estates abandoned in Trinidad and British Guiana. See Rodney, op cit. pp 35-36, 49. Adamson cites instances in the 1890s when Government enquiries revealed that a substantial proportion of the indentured labour was earning wages far below the

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statutory minimum caused by the reduction of the work on the plantations and increase in the size of tasks. Adamson "Impact of Indentured Immigration" op cit, p 45.

51. D.W.D. Commins "Note on Emigration to Trinidad", Diary p 21 in Emig. A Sept. 1893 Prog. no 9-19.

52. Rodney, op cit p 132.

53. Report of the West Indian Royal Commission, 1897 p 70.

54. It cost roughly $ 82(B.G.) to introduce a labour in the 1890s and another $60 to repatriate the labour back to India. This cost had remained constant since the 1870s. Evidence of Cavendish Boyle to The West Indian Royal Commission in Report of the Royal Commission on the West Indies, Parliamentary Papers vol L. The cost of repatriation was an important factor in the periodic attempts to settle the prospective returnees on Government lands in 1880s and again in the late 1890s. See Rodney op cit, p 86.

55. R.W. Beachey, The British West Indies Sugar Industry in the Late 19th Century, Oxford: Blackwell, 1957 p 116.

56. Howard Johnson, "The Origins and Early Development of Cane Farming in Trinidad 1882-1906." in Journal of Caribbean History, Vol 5, 1972, p 56 and p 61.

57. ibid p 57. Neville Lubbock, chairman of the Colonial Company, the largest single producer of West Indian sugar, was the first to initiate peasant cane cultivation in Trinidad in 1880. Testifying before the West Indian Royal Commission in 1897 he outlined his general strategy as "to give sufficient land for a man, wife and two or three children...two acres at best for this family unit to cultivate...to avoid their employing outside labour." Evidence of Neville Lubbock, Report of the West Indian Royal Commission, Evidence volume, p 10 op cit.

58. cited in Rodney op cit, p 87.

59. ibid p 88. See also Lesley Potter "The Post-Indenture Experience of East Indians in Guyana, 1873-1921" in Bridget Brerton and W.Dookeran (ed) East Indians in the

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Caribbean, Kraus publications, New York, 1982 for an analysis of patterns of land buying by Indians for rice farming which suggests that most purchases were of small lots of family farms, not very distant from the sugar estates.

60. Report on Emigration from India to the Crown Colonies and Protectorates (the Sanderson committee), 1910 Parliamentary Papers XXVII pp 139-140.

61. Report of the Commissioners Appointed to Enquire into the Treatment of Immigrants in British Guiana, London, 1871, para 860-861. (Hereafter RBGEC)

62. ibid, Evidence vol, Q6543 and Q8218 evidence of J. Crosby, D. Brandon and J.D.Fraser. Q3469,

63. ibid, Evidence of J.Crosby Q3472.

64. ibid, Q3469.

65. ibid Q3461. In his evidence Crosby often implied that the transfer clause was used by women to get an "inconvenient" husband removed. ibid, Q3472. See also the opinion of J D Fraser in ibid Q8223 and 8224. The B.G commissioners echoed Crosby's view after reviewing the transfer cases that "the threats and charges of threats are not in all cases bona fide, and that they are brought forward in order to get a change to another estate or to get rid of a bad or useless subject.." RBGEC, para 885.

66. Circular to the proprietors by the Governor of British Guiana 19th Nov. 1868, enclosure to CO/111/369/ no 162, PRO.

67. Circular of Earl Kimberly, Sec. of State Colonies, 8th Jan 1872 in Emig. A Jan. 1873 Prog. no 1 NAI.

68. Calculated from the Annual Report of The Immigration Agent General of British Guiana of the relevant years.

69. Chandra Jaywardene's account of plantation life in the British Guiana in the 1930s, reveals, the existence of the manager's court in which the domestic disputes of the coolies were settled as well as punishments meted out to the guilty. The origins of the practice of close supervision of the plantation family could be traced back to the 1870s. See Chandra Jayawardene

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"Family Organisation in Plantations in British Guiana" in International Journal of Comparative Sociology, Vol III, No 1, Sept. 1962, Leiden, pp 45-6.

70. Governor of B.G to S.O.S. colonies, 16th Oct. 1885 no 295 enclosed in Emig. A March 1886 Prog no 2 NAI.

71. Minute of W.F.H. Smith dt. 5th Aug. 1882 in Emig. A, Aug. 1884, Prog. no 20-21, NAI.

72. W.F.H. Smith to Governor of B.G. 16th Oct. 1885, in Emig. A March 1886 Prog. no 2 NAI.

73. Longden to S.O.S. of colonies dt. 15th Sept. 1874 in Emig. A, Aug. 1874, Prog 13-26, NAI.

74. W.F.H. Smith to Governor British Guiana, 16th Oct. 1885, Emig. A March 1886, Prog. no 2, NAI.

75. Memo of the Governor on the Marriage Bill of 1887, in Emig. A Jan. 1888, Prog. no 13-14 NAI.

76. RBGEC, para 877. The commission acknowledged that the punishment was degrading but justified it on ground of the "exceptional" situation of disproportionate sex ratio and the low level of "civilisation" in the colony. Moreover they thought that the idea of such degrading punishment was not novel to the immigrants many of them having come from territories recently annexed to the British Empire in India. But they assured that "if the law was passed, even the abandoned creatures we find coming out here would be coerced into propriety, probably without the law ever being enforced".

77. H.V.P. Bronkhurst op cit, p 244.

78. RBGEC, para 877. H.V.P. Bronkhurst, op cit p 401.

79. Note of governor of Trinidad in Emig. A, Aug. 1874 13-26 NAI. The question of punishment for adultery was discussed extensively in the correspondence with the Indian government, specially since adultery was a punishable offence in the Indian Penal Code. Indian officials were very much in favour of introducing punishment for adultery in the marriage laws in the caribbean, some even suggesting punishment for the women on the lines of the Punjab frontier regulations which prescribed flogging for adultery. See Emig. A, 12-13, April 1881; Emig. A, 2, Mar 186; Emig. A, 6-7, Oct. 1886 NAI.

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80. "Coolie Marriage Ordinance Case" in San Fernando Gazette April 2, 1887.

81. Evidence of J.Crosby in RBGEC Evidence, Q3479

82. C.Mitchell to actg. colonial secy. dt. 1st Jan. 1885. in Emig. A July 1886 Prog. no 3-7, NAI. The IAG of British Guiana gave substantially the same suggestion. See his letter to colonial secy. dt. 23 Feb. 1885 in the above file.

83. Demerara Daily Chronicle, Georgetown, July 4 and August 20, 1899.

84. In 1899 a case of this kind occurred in Guiana when a woman fled to her mother's home and refused to return to her husband, the mother was charged under the harbouring clause. The magistrate was willing to imprison the mother when it was found that the marriage had not been legalised by registration under the marriage ordinance. The magistrate took the opportunity to harangue the plaintiff and the large Indian audience about the virtues of registering marriages under the ordinance. "Case of Seenath", Demerara Daily Chronicle, Georgetown, July 29, 1899.

85. The original petition and the discussion around it on which large part of this section is based is to be found in Emig. A August 1884 Prog. no. 21-22 NAI.

86. RBGEC, Evidence vol, Q3479.

87. H.Irving to SOS colonies dt. 5th Dec. 1883 in Emig. A Aug. 1884 Prog. no 21-22 NAI.

88. Note of D.F. Fitzpatrick dt. 23-6-1884 in Keep With (K.W) to file in Emig. A Aug. 1884 Prog. no 21-22 NAI.

89. GOI to SOS colonies dt. 16th Aug. 1884 in Emig. A Aug. 1884 Prog. no 21-22 NAI.

90. ibid.

91. The first case of crim con under the new marriage ordinance (No 23 of 1891) in Trinidad came up for decision in the district court of San Fernando on the 30th June 1893. It generated tremendous public

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curiosity and a packed court room. Neharoo accused Beharry of having an affair with his wife Radea and demanded 50 sterling pound as compensation. The prosecutor argued that his client deserved compensation for the loss of his wife's society as "he had instead of adopting the use of the cutlass, so common amongst his countrymen, had recourse to the law which will and must protect him from such outrages". The judge though inclined to give the maximum compensation in view of the importance of the case and the presence of a large number of Indians in the court room, reduced the penalty to 10 sterling pounds in view of the 'fact' that Radea was of a "loose character". San Fernando Gazette, San Fernando, July 4, 1893.

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